

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TNT AMUSEMENTS, INC.,
d/b/a PLAY-MOR COIN-OP,

Plaintiff,

V.

TORCH ELECTRONICS, LLC, *et al.*,

Defendants.

Case No. 4:23CV330 JAR

MEMORANDUM AND ORDER

This matter is before the Court on motions related to the supplemental report of Plaintiff's expert, Stacy Friedman. For the reasons set forth below, Defendants' Motion to Strike Untimely and Improper Third Supplemental Expert Report of Stacy Friedman [ECF No. 179] will be denied, and Plaintiff's Motion to Supplement Expert Report [ECF No. 181] will be granted.

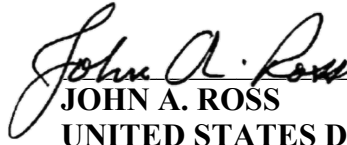
Plaintiff requests leave from the Court to supplement Friedman’s report for the third time. As Defendants recognize in their Motion, this issue has been largely resolved by the Court in its March 6, 2024, Order. ECF No. 165. In that Order, the Court granted Plaintiff’s motion for leave to supplement Friedman’s report out of time because Defendants sent Friedman the wrong Torch Device to examine. The reason Friedman is supplementing his report for a third time is because of Defendants’ error. The Court allowed Defendants an opportunity to supplement their reports, re-depose Friedman and file new motions made under *Daubert* on the limited issues raised in these supplements to cure any prejudice to them. Defendants do not make arguments under *Daubert* for denying Plaintiff’s Motion. Instead, Defendants argue that Friedman’s previous

supplemental reports should have been excluded, so the third supplement should be excluded as well. Defendants acknowledge the Court's March 7, 2024, Order already addressed this issue, and concede they are not seeking to relitigate these issues, but raising this objection to preserve for appeal. Based on the Court's prior ruling that resolved this issue, the Court will deny Defendants' Motion to Strike Untimely and Improper Third Supplemental Expert Report of Stacy Friedman, and Plaintiff's Motion to Supplement Friedman's Expert Report will be granted.

Accordingly,

IT IS HEREBY ORDERED that Defendants' Motion to Strike Untimely and Improper Third Supplemental Expert Report of Stacy Friedman [ECF No. 179] is **DENIED**, and Plaintiff's Motion to Supplement Expert Report [ECF No. 181] is **GRANTED**.

Dated this 18th day of July, 2024.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE